

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: JOSEPH C. HURLBURT
Serial No.: 10/729,896 Art Unit: 3681
Filed: December 8, 2003 Examiner: Saul J. Rodriquez
For: TRAILER HAVING TILT AND DUMP FUNCTIONS

Commissioner for Patents
Mail Stop REISSUE
P. O. Box 1450
Alexandria, VA 22313-1450

S I R:

SECOND SUPPLEMENTAL DECLARATION
FOR REISSUE PATENT APPLICATION

Joseph C. Hurlburt hereby declares as follows:

1. I am the sole inventor of the subject matter disclosed and claimed in U. S. Reissue Patent Application Serial No. 10/729,896. The entire title to U. S. Patent No. 6,527,494 granted on March 4, 2003, which is the subject of the instant reissue application, is vested in Innovations By Contract, Inc., as is evidenced by the Assignment duly recorded with the U. S. Patent and Trademark Office at Reel 012525, frame 0028. The Assignee is wholly owned by me. My current residence, mailing address and citizenship are:

Name: Joseph C. Hurlburt
Residence: Millersville, Pennsylvania
Post Office Address: 938 Rivergate Court
Millersville, PA 17551
Citizenship: United States of America

2. I believe that I am the original, sole and first inventor of the subject matter which is described and claimed in the '494 patent and in the instant reissue application.

3. With the help of counsel, I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by all amendments to date.

4. At least one error upon which reissue is based is described as follows:

a. Originally patented Claim 1 is anticipated by U. S. Patent No. 3,235,284 (Yant) which was not considered by the Examiner during prosecution of U. S. Patent No. 6,527,494. As a consequence, Claim 1 claimed more than Applicant had a right to claim and is not seen as being patentable without the addition of the following limitations:

the articulated frame includes a locking device selectively coupling the tilt frame to the draft tongue to restrict pivotal movement of the tongue relative to the tilt frame about the articulation axis and being operable to cause the bed frame to pivot about the selected one of the dump pivot axis and the tilt pivot axis.

b. Originally patented Claim 14 is anticipated by U. S. Patent No. 3,235,284 (Yant) which was not considered by the Examiner during prosecution of U. S. Patent No. 6,527,494. As a consequence, Claim 14 claimed more than Applicant had a right to claim and is not seen as being patentable without the addition of the following limitations:

the yoke is connected to the actuator and a pair of transversely spaced legs depending downwardly from the connection with the actuator to be pivotally connected to the load bed on transversely opposing sides of the actuator by a pivot mechanism defining a yoke pivot axis to effect vertical movement of the load bed in response to a corresponding linear movement of the actuator.

c. Originally patented Claim 25 is anticipated by U. S. Patent No. 4,652,196 (Woerman) which was not considered by the Examiner during prosecution of U. S. Patent No. 6,527,494. As a consequence, Claim 25 claimed more than Applicant had a right to claim and is not seen as being patentable without the addition of the following limitations:

the load bed is pivotally connected to the frame for vertical movement relative thereto about a transversely oriented pivot axis; and an actuator mechanism is positioned

forwardly of the load bed and is pivotally supported on the frame about a transversely extending actuator pivot axis.

d. Originally patented Claim 37 is anticipated by U. S. Patent No. 4,652,196 (Woerman) which was not considered by the Examiner during prosecution of U. S. Patent No. 6,527,494. As a consequence, Claim 37 claimed more than Applicant had a right to claim and is not seen as being patentable without the addition of the following limitations:

the yoke is connected to the linear actuator at a connection point and having arms pivotally connected to the movable member on opposing sides of the linear actuator along a transversely extending yoke pivot axis to effect vertical movement of the movable member.

e. Originally patented Claims 1 and 2 were issued with limitations that unduly limited the scope of Claims 1 and 2, and thus claimed less than Applicant was required to claim, including the limitation of the draft tongue being pivotally connected to the tilt frame for pivotal movement about an articulation axis located forwardly of the tilt pivot axis, which limitation was not necessary for patentability. As a consequence, Claim 43 was submitted as a newly presented independent claim containing limitations similar to patented Claim 1, except for the limitation of the draft tongue being pivotally connected to the tilt frame for pivotal movement about an articulation axis located forwardly of the tilt pivot axis, although additional limitations were added on which patentability is based, including specifically that the locking mechanism is operable to control about which pivot axis the load bed will pivot. As a consequence, Claim 43 is patentable over U. S. Patent No. 3,235,284 (Yant) by virtue of the addition of one of more of the following limitations:

the locking mechanism is cooperatively associated with the bed frame, the tilt frame and the draft tongue for selectively permitting the bed frame to pivot respectively relative to the dump pivot axis and relative to the tilt pivot axis; and an actuator interconnecting the draft tongue and the bed frame forwardly of the forwardmost transverse frame member to effect pivotal movement of the bed frame.

5. I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. 1.56.

6. Every error in U. S. Patent No. 6,527,494 which was corrected in the instant reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the Applicant. Furthermore, any errors made in the previously submitted Supplemental Declaration were made without any deceptive intention on the part of the Applicant.

7. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: September 8, 2009

Joseph C Hurlburt
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